

CLERK'S OFFICE U.S. DIST. COURT  
AT HARRISONBURG, VA  
FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

May 14, 2024  
LAURA A. AUSTIN, CLERK  
BY: s/J. Vasquez  
DEPUTY CLERK

SAMUEL JOSEPH ORLANDO,	)	
	)	
Plaintiff,	)	
	)	Case No. 5:22-cv-062
v.	)	
	)	
SHERIFF DONALD L. SMITH, et al.,	)	
	)	
Defendants.	)	
_____	)	
	)	
SAMUEL JOSEPH ORLANDO,	)	
	)	
Plaintiff,	)	Case No. 5:23-cv-012
	)	
v.	)	By: Michael F. Urbanski
	)	Chief United States District Judge
BRISTOL NEAL, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On October 24, 2022, plaintiff Samuel Joseph Orlando initiated a fourteen-count civil action against defendants Sheriff Donald Smith, Major Brian Jenkins, Bristol Neal, and Rebecca Byrd Neal. Compl., ECF No. 1, Case No. 5:22-cv-062 (the “Smith Action”). On February 2, 2023, the court severed the four counts brought solely against defendants Bristol Neal and Rebecca Byrd Neal (the “Neals”) into a new civil action, Case No. 5:23-cv-012 (“the Neal Action”). Order, ECF No. 40.<sup>1</sup>

<sup>1</sup> All citations are to the Smith Action unless indicated otherwise.

On May 8, 2023, the court stayed the Smith Action due to related pending state criminal proceedings, ECF No. 51, and Orlando appealed the stay to the United States Court of Appeals for the Fourth Circuit (the “Fourth Circuit”), ECF No. 52. On December 21, 2023, following a hearing and briefing from the parties, the court issued a memorandum opinion indicating that it was inclined to vacate its stay order given the substantial time that had passed without any criminal charges being filed in the related state proceedings. Mem. Op., ECF No. 64. On January 2, 2024, the Fourth Circuit remanded the case for this court to dissolve the stay, ECF No. 65, which the court did the following day, ECF No. 66. On March 4, 2024, the Fourth Circuit dismissed Orlando’s appeal as moot, ECF No. 73, and issued its formal mandate on March 26, 2024, ECF No. 75.<sup>2</sup> A trial date has not yet been set in the Smith Action following the court’s lifting of the stay.

Meanwhile, in the Neal Action, the parties engaged in discovery throughout 2023, and, on February 5, 2024, Orlando filed a motion for partial summary judgment, which is currently pending before the court. Pl.’s Mot. Partial Summ. J., ECF No. 112.<sup>3</sup> On February 14, 2024, however, Rebecca Neal filed a motion to stay both cases until she obtained counsel because Orlando filed a criminal complaint in state court accusing her of engaging in the unauthorized practice of law. Def.’s Mot. to Stay, ECF No. 67.<sup>4</sup> Judge Hoppe held an in-person hearing on

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<sup>2</sup> On May 2, 2024, Orlando filed a motion for entry of default judgment against defendants Smith and Jenkins for failing to respond to the complaint after the Fourth Circuit entered its mandate. Pl.’s Mot., ECF No. 82. That motion is currently pending before the Honorable Joel C. Hoppe, United States Magistrate Judge.

<sup>3</sup> Trial in the Neal Action is currently set for September 23–27, 2024, though the court notes that these dates currently conflict with a multi-week criminal trial. If both cases proceed to trial as scheduled, the criminal trial must take precedence given the defendant’s constitutional protections.

<sup>4</sup> The Neals were represented by Bradley Pollack in both actions until the Virginia State Bar suspended his license for six months, effective November 6, 2023. Order, ECF No. 60. The Neals are currently proceeding pro se.

the motion on April 30, 2024, and denied the motion by written memorandum opinion and order on May 10, 2024, thereby clearing the parties in both actions to continue completing pre-trial deadlines and proceed to trial. Mem. Op. & Order, ECF No. 88.

Accordingly, the issue before the court is how to efficiently adjudicate both actions, including through re-consolidating the actions and setting them for trial together. Therefore, it is hereby **ORDERED** that the parties may submit any briefing within fourteen (14) days on the issue of whether the court should vacate its earlier Order severing the cases, ECF No. 40, and set the cases for a single trial.

Further, Orlando's motion for partial summary judgment, ECF No. 112, is **TAKEN UNDER ADVISEMENT** pending briefing on the issue of re-consolidation and Judge Hoppe's ruling on Orlando's motion for default judgment in the Smith Action, ECF No. 82. The court will contact the parties if it determines that a hearing on Orlando's partial summary judgment motion is necessary to aid its analysis.

It is **SO ORDERED**.

Entered: May 13, 2024



Michael F. Urbanski  
Chief United States District Judge